

21 C.J.S. Courts § 318

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Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

IX. Court Commissioners

B. Powers and Immunity

§ 318. Actions of court commissioners in excess of authority; liability or immunity

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Court Commissioners](#) 3, 4

Unauthorized acts by court commissioners are a nullity or voidable, and commissioners are generally immune from damage liability for judicial acts taken in excess of jurisdiction.

Unauthorized acts by court commissioners are a nullity¹ or without legal effect² and may also be voidable.³ Thus, for example, where court commissioners are prohibited by statute from entering final appealable orders, the decision of a commissioner is a nullity from which no appeal can be taken.⁴

Generally, as a person performing judge-like functions,⁵ a court commissioner is immune from damage liability for judicial acts,⁶ even if the commissioner acts in excess of jurisdiction,⁷ as long as he or she does not act in the clear absence of jurisdiction.⁸

Footnotes

1 Ind.—[Rivera v. State](#), 601 N.E.2d 445 (Ind. Ct. App. 1992).

2 Mo.—[Kuhlman v. Director of Revenue, State of Mo.](#), 943 S.W.2d 246 (Mo. Ct. App. E.D. 1997).

3 Wis.—[State v. Loney](#), 110 Wis. 2d 256, 328 N.W.2d 872 (Ct. App. 1982).

4 Ind.—[Rivera v. State](#), 601 N.E.2d 445 (Ind. Ct. App. 1992).

5 U.S.—[Franceschi v. Schwartz](#), 57 F.3d 828 (9th Cir. 1995).

6 U.S.—[Franceschi v. Schwartz](#), 57 F.3d 828 (9th Cir. 1995).

Cal.—[Branson v. Martin](#), 56 Cal. App. 4th 300, 65 Cal. Rptr. 2d 401 (2d Dist. 1997).

Md.—[Davis v. DiPino](#), 337 Md. 642, 655 A.2d 401 (1995).

Quasi-judicial immunity

U.S.—[D'Angelo v. New Hampshire Supreme Court](#), 740 F.3d 802 (1st Cir. 2014).

7 U.S.—[Franceschi v. Schwartz](#), 57 F.3d 828 (9th Cir. 1995).

8 U.S.—[Franceschi v. Schwartz](#), 57 F.3d 828 (9th Cir. 1995).

Cal.—[Branson v. Martin](#), 56 Cal. App. 4th 300, 65 Cal. Rptr. 2d 401 (2d Dist. 1997).